

**REMARKS**

The Examiner has objected to the drawings under 37 C.F.R. § 1.83(a).

As a preliminary matter, the Examiner has rejected Claim 2 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 stands currently amended. Accordingly, Applicant respectfully asserts that Claim 2 is now in acceptable form.

The Examiner has rejected claims 1-6 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,271,222 to Nakagawa (“Nakagawa”). The Examiner has also rejected Claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Nakagawa. Claims 1, 2, 4, and 6 have been currently amended. Claim 8 is newly added. Claims 1-8 are currently pending. The following remarks are considered by applicant to overcome each of the Examiner's outstanding rejections to current claims 1-7. An early Notice of Allowance is therefore requested.

**I. OBJECTION TO THE DRAWINGS UNDER 37 C.F.R. § 1.83(A)**

On page 2 of the current Office action, the Examiner has objected to the drawings under 37 C.F.R. § 1.83(a). In particular, the Examiner asserts that the drawings must show every feature of the invention specified in the claims. Therefore, Examiner asserts that the damping element being constructed in the diaphragm or in the first opening (Claim 4) must be shown. Applicant notes that Claim 4 stands currently amended, and respectfully asserts that, in light of these amendments, Figs. 6 shows the damping element being constructed in the first opening and Fig. 7 shows the damping element being constructed in the diaphragm. Therefore, Applicant respectfully asserts that the drawings are in compliance with 37 C.F.R. § 1.83(a), and respectfully requests the Examiner withdraw this objection.

**II. SUMMARY OF RELEVANT LAW**

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The determination of obviousness rests on whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. In determining obviousness, four factors should be weighed: (1) the scope and content of the prior art, (2) the differences between the art and the claims at issue, (3) the level of ordinary skill in the art, and (4) whatever objective evidence may be present. Obviousness may not be established using hindsight or in view of the teachings or suggestions of the inventor. The Examiner carries the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness and must show that the references relied on teach or suggest all of the limitations of the claims.

**III. REJECTION OF CLAIMS 1-6 UNDER 35 U.S.C. § 102(B) BASED ON NAKAGAWA**

On page 3 of the current Office Action, the Examiner rejects claims 1-6 under 35 U.S.C. § 102(b) as being anticipated by Nakagawa. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Claim 1 states, in part:

**“wherein the sound entering via the second sound inlet strikes the second surface of the first diaphragm very largely unaffected,**

**“wherein an acoustic damping element is arranged at the first sound inlet for damping the sound entering via the first sound inlet before the sound strikes the first surface of the first diaphragm,**

**“wherein the first sound inlet lies in front of the first diaphragm with respect to a main sound direction,**

**“wherein the second sound inlet lies behind the first diaphragm with respect to the main sound direction.”** (emphasis added).

Nakagawa shows a microphone with a back electrode 19 and a diaphragm 16. At the back of the back electrode 19, a damper cloth 21 is arranged. A central opening is formed in the front panel. Nakagawa, Col. 2, Lns. 41-53; Figs. 1, 2, 4, and 5. Accordingly, the front panel 17 with the central opening 23 constitutes the part of the microphone which lies in front of the diaphragm with respect to a main sound direction.

It should be noted that the cloth 25 of Nakagawa is merely described as a cloth, and is not described as a damper cloth. In other words, the cloth 24 has no damping characteristics. The only damping element described in Nakagawa is the damper cloth 21 which is arranged – in the main sound direction – behind the diaphragm. Accordingly, sound coming from the main sound direction passes through the cloth 24 and the central opening 23 to reach at a surface of the diaphragm. The sound entering via the holes 29 first has to pass through the damper cloth 22 to reach the further surface of the diaphragm. In other words, the sound entering via the holes 29 is damped before it can reach the further surface of the diaphragm. With respect to the main sound direction, the sound inlets 29 are arranged behind the first diaphragm. Accordingly, Nakagawa describes a microphone wherein sound – in the main sound direction – enters a central opening 23 and strikes the diaphragm 16 very largely unaffected. However, sound entering via the sound inlets 29 (which are arranged behind the diaphragm with respect to the main sound direction) are damped by the damper cloth 21 before it can strike the diaphragm 16.

Conversely, Claim 1 states that the sound entering via the second sound inlet is very largely unaffected, wherein the second sound inlet lies behind the first diaphragm with respect to the main sound direction. However, as stated above, Nakagawa describes sound entering a sound inlet in front of the diaphragm, in the main sound direction, as being largely unaffected. Accordingly, Nakagawa fails to disclose this language of Claim 1.

In addition, Claim 1 states that an acoustic damping element is arranged at the first sound inlet, wherein the first sound inlet lies in front of the first diaphragm with respect to a main sound direction. However, as stated above, the only acoustic damping element Nakagawa

describes is located behind the diaphragm with respect to a main sound direction. Accordingly, Nakagawa fails to disclose this language of Claim 1.

Therefore, the teaching of Nakagawa related to a different technical teaching, and fails to disclose any of the above language of Claim 1.

As such, Applicant respectfully asserts that Examiner has failed to establish a *prima facie* case of obviousness of Claim 1, and corresponding claims 2-6 because they are each dependent from Claim 1. Therefore, Applicant respectfully requests that Examiner remove the rejection of claims 1-6 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,271,222 to Nakagawa.

#### **IV. REJECTION OF CLAIM 7 UNDER 35 U.S.C. § 103(A) BASED ON NAKAGAWA**

On page 5 of the current Office Action, the Examiner rejects Claim 7 under 35 U.S.C. § 103(a) as being anticipated by Nakagawa. This rejection is respectfully traversed and believed overcome in view of the following discussion.

Claim 7 depends from independent Claim 1. As Claim 1 is allowable, so must be Claim 7. Therefore, Applicant respectfully requests that Examiner remove the rejection of Claim 7 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,271,222 to Nakagawa.

#### **V. NEW CLAIM 8**

New Claim 8 depends from independent Claim 1. As Claim 1 is allowable, so must be Claim 8. Therefore, Applicant respectfully requests that Examiner allow Claim 8.

Based upon the above remarks, Applicant respectfully requests reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference with Applicant's attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,

Eugene LeDonne - Reg. No. 35,930  
REEDSMITH LLP  
599 Lexington Avenue  
New York, NY 10022  
Tel.: 212.521.5400

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